

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:19-cv-00348

Koby McMillan,
Plaintiff,

v.

Judge Scott Novy et al.,
Defendant.

Before BARKER, *District Judge*

ORDER

On this day, the court considered the findings of fact and recommendation of United States Magistrate Judge K. Nicole Mitchell regarding plaintiff's civil rights lawsuit complaining of Judge Scott Novy, the presiding judge in the criminal case pending against plaintiff in Gregg County.

Having conducted a proceeding in the form and manner prescribed by 28 U.S.C. § 636(b)(1) and (3), the magistrate judge recommended that the lawsuit be dismissed with prejudice for purposes of proceeding *in forma pauperis* as frivolous and for failure to state a claim upon which relief may be granted. The plaintiff received a copy of the report on September 14, 2019, and has filed no objections. Plaintiff is therefore barred from appealing the factual findings and legal conclusions of the magistrate judge that are accepted and adopted by the district court except upon grounds of plain error. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).

Upon review, the court is of the opinion that the findings of fact and recommendation, filed on September 10, 2019, should be accepted. Therefore, those findings and recommendations are hereby **adopted**.

The above-styled civil action is **dismissed with prejudice** for purposes of proceeding *in forma pauperis* as frivolous and for failure to state a claim upon which relief may be granted. Any motions which may be pending in this civil action are hereby **denied**. The clerk of court is **directed** to close the case.

So ordered by the court on December 5, 2019.

A handwritten signature in black ink, appearing to read "J. Campbell Barker", is written over a horizontal line.

J. CAMPBELL BARKER
United States District Judge